

Message Text

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ORIGIN STR-04

INFO OCT-01 EUR-12 IO-11 ISO-00 FEA-01 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 EB-07 FRB-03 H-02 INR-07

INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05

CIEP-01 SS-15 TAR-01 TRSE-00 USIA-06 PRS-01 SP-02

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EUR/RPE:RBRESLER

LABOR:DSCHULMAN

OMB:LHOUGH

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TO USMISSION OECD PARIS PRIORITY

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E.O. 11652: N/A

TAGS: ETRD, OECD

SUBJECT: DRAFT REPORT TO TC ON GOVERNMENT PURCHASING
(TFD/TD/897)

REF: OECD PARIS 33986

1. WE FOUND CITED SECRETARIAT DRAFT REPORT SHORT OF OUR
EXPECTATIONS. MISSION AWARE OUR VIEW THAT REPORT WILL NOT
IMPORTANTLY AFFECT OUTCOME OF TRADE COMMITTEE MEETING.

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CONSEQUENTLY, WE PROPOSE TO LIMIT REWORKING OF REPORT TO

INSTANCES WHERE INACCURACIES OR BIASES NEED TO BE CORRECTED. WASHINGTON REPRESENTATION CANNOT BE PROVIDED. MISSION IS INSTRUCTED TO WORK FOR THE FOLLOWING CHANGES IN THE SECRETARIAT DRAFT. WHERE INDICATED CHANGES ARE NOT CONSIDERED SELF-EVIDENT, EXPLANATORY MATERIAL IS PROVIDED.

2. WE CONSIDER THAT MOST OF THE SUBJECTS TREATED IN THE ANNEX TO THE DRAFT REPORT ARE OF SUFFICIENT IMPORTANCE TO BE TREATED IN THE BODY OF THE REPORT. WE SHOULD WORK TOWARD ELIMINATION OF ANNEX. SUGGESTIONS AS TO WHERE ANNEX ITEMS ARE TO BE RELOCATED IN THE REPORT ARE INCLUDED BELOW.

3. NO CHANGES IN PARAS 1 AND 2 OF DRAFT.

4. PARA 3 - (A) SUBSTITUE FOLLOWING FOR FIRST SENTENCE: QUOTE THE EXISTING TEXT OF THE DRAFT INSTRUMENT PRESENTS A DETAILED FRAMEWORK OF A CODE. MANY PARTS HAVE BEEN FULLY ELABORATED WITH AREAS OF AGREEMENT AND DISAGREEMENT CLEARLY INDICATED END QUOTE. (B) THE PART OF THE SECOND SENTENCE AFTER THE CONJUNCTION QUOTE AND END QUOTE IS INACCURATE AND SHOULD BE SUBSTITUTED WITH QUOTE CERTAIN PROCEDURAL PROVISIONS. END QUOTE. (C) IN THE THIRD SENTENCE QUOTE AGREED END QUOTE SHOULD BE SUBSTITUTED FOR QUOTE COMMON GROUND END QUOTE AND THE WORD QUOTE REGULAR END QUOTE SHOULD BE DELETED (WE KNOW OF NO PRACTICE OR NEED TO QUALIFY SURVEILLANCE). (D) FOR THE LAST SENTENCE SUBSTITUTE: QUOTE THERE HAVE BEEN A NUMBER OF PROPOSALS

(INCLUDING SOME MADE AT THE LAST MEETING OF THE WP) WITH REGARD TO IMPORTANT QUESTIONS REFERRED TO BELOW WHICH HAVE NOT AS YET BEEN FULLY EXPLORED OR DEVELOPED. END QUOTE. THIS CHANGE SUGGESTED TO CORRECT IMPRESSION OF ORIGINAL SENTENCE THAT ONLY CHANGES OUTSTANDING ARE THOSE SUGGESTED BY COMMUNITY AT LAST MEETING.

5. PARA 4 - (A) THE INTRODUCTORY SENTENCE SHOULD READ: QUOTE THE MAIN PROBLEMS ARE GROUPED TOGETHER UNDER FIVE HEADINGS: END QUOTE. THE NEW HEADING V WOULD READ QUOTE BENEFITS OF AGREEMENT AND FINAL PROVISIONS. END QUOTE. THE SUBJECTS UNDER THIS NEW HEADING WOULD BE ITEMS 3 AND LIMITED OFFICIAL USE

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4 OF THE ANNEX TO THE DRAFT. (B) THE LAST ITEM NOW LISTED UNDER HEADING III (SINGLE TENDERING) DOES NOT GO TO THE TRANSPARENCY OF THE AGREEMENT BUT RATHER TO THE FIELD OF APPLICATION AND SHOULD THEREFORE BE MOVED UP UNDER HEADING I. (C) ANNEX ITEMS 1 AND 2 WOULD BE CITED UNDER HEADING I ALSO AND THE TEXT MATERIAL MOVED ACCORDINGLY. (D) ANNEX ITEM 5 WOULD BE SIMILARLY MOVED TO III. (E) WITH ELIMINATION OF ANNEX, LAST SENTENCE OF PARA 4 OF DRAFT SHOULD BE

DELETED.

6. NO CHANGES IN PARAS 5 AND 6 OF DRAFT.

7. PARA 7 - TO MAKE THE SECOND SENTENCE MEANINGFUL WE SUGGEST THAT THE END OF IT BE RECAST AS FOLLOWS QUOTE... OF THE INSTRUMENT TO SELECTED PUBLIC ENTITIES TO ACHIEVE A BALANCED LEVEL OF OBLIGATIONS AMONG SIGNATORIES. END QUOTE.

8. PARA 8 - DELETE THE LAST PART OF THE LAST SENTENCE BEGINNING WITH: QUOTE WITHOUT THERE NECESSARILY BEING, ETC. END QUOTE. WE AGREE WITH FOOTNOTE (2) TO THE EXTENT THAT ALL PARTIES HAVE NOT YET ESTABLISHED TO THEIR SATISFACTION THAT A LARGE PERCENTAGE SHARE (IN VALUE) OF

CONTRACTS WOULD BE COVERED WITH A LOWER THRESHOLD. IT HAS HOWEVER BEEN ESTABLISHED TO OUR SATISFACTION, AND WE THEREFORE SEEK THE DELETION ON THE BASIS OF INACCURACY. SEEK TO REPLACE THE DELETION WITH: QUOTE THERE ARE INDICATIONS THAT SMALL CONTRACTS REPRESENT A LARGE SHARE OF CERTAIN COUNTRIES' TOTAL PROCUREMENT. END QUOTE.

9. PARA 10 - REPLACE THE SECOND SENTENCE WITH: QUOTE A NUMBER OF DELEGATIONS SPOKE TO SPECIFIC DEROGATIONS BUT WORK TO DATE HAS NOT PRODUCED SPECIFIC TEXTS FOR SUCH DEROGATIONS. END QUOTE.

10. PARA 11 - THE LIMITS ON THE SAFEGUARD CLAUSE ARE NOT STRICT SINCE INACTION BY THE SUPERVISORY BODY COULD ALLOW A FREE HAND FOR UP TO TWO YEARS. THEREFORE, ELIMINATE WORD QUOTE STRICT END QUOTE IN BOTH INSTANCES. IN THE THIRD SENTENCE IT WOULD BE MORE ACCURATE TO SUBSTITUTE LIMITED OFFICIAL USE

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QUOTE THE PROPOSAL END QUOTE FOR QUOTE SUCH A PROVISION. END QUOTE.

11. PARA 14 - STRIKE LAST PART OF PARENTHETICAL BEGINNING WITH QUOTE ... AND THERE WITHIN, ETC. END QUOTE. SINCE BILATERAL CONSULTATIONS ARE NOT AT THE QUOTE LOWEST LEVEL END QUOTE BUT ARE INCLUDED IN QUOTE INTERNATIONAL LEVEL END QUOTE.

12. PARA 16 -IF PARA 17 GIVESTHE EC CREDIT FOR A COMPROMISE PROPOSAL, THIS PARA PROPOSAL SHOULD BE SIMILARLY TREATED BY INSERTING WORD QUOTE COMPROMISE END QUOTE IN THE LAST SENTENCE BEFORE QUOTE APPROACH END QUOTE.

13. PARA 17 - (A) THE COMPROMISE PUT FORWARD BY THE U.S. (PARA 16) IS NO LESS FUNDAMENTALLY ALIGNED WITH THE CONSENSUS OF SIGNATORY GOVERNMENTS THAN THAT OF THE OTHER DELEGATES REFERRED TO IN PARA 17. CONSEQUENTLY, SEEK DELETION OF CLAUSE IN FIRST SENTENCE BEGINNING WITH: QUOTE WHO FAVOR A CONCEPTION ALIGNED ETC. END QUOTE. (B) ON THE FIFTH LINE CHANGE QUOTE IF THEY SO AGREE END QUOTE TO QUOTE IF BOTH AGREE END QUOTE. (C) AT THE END OF THIS PARA ADD: QUOTE SOME DELEGATIONS BELIEVE THAT THE ARBITRATION PROCEDURE SHOULD BE MANDATORY IF REQUESTED BY ONE OF THE PARTIES. END QUOTE.

14. PARA 18 - A CONJUNCTION (AND) IS NEEDED BEFORE THE WORDS QUOTE DECISION-MAKING PROCEDURES END QUOTE IN FIRST SENTENCE. FOR LAST TWO SENTENCES SUBSTITUTE: QUOTE IT WAS AGREED AT THE LAST TCWP MEETING THAT FURTHER REFLECTION ON THE PROPOSAL WAS NECESSARY AND THAT ADDITIONAL DETAILS

OF THE PROPOSAL WOULD HAVE TO BE DEVELOPED. END QUOTE.

15. PARA 21 - SECOND SENTENCE SHOULD READ: QUOTE CERTAIN DELEGATES CONSIDER THAT EX POSTE PUBLICITY IS THE ONLY BASIS FOR INSURING THAT CONTRACTS WILL BE AWARDED IN ACCORDANCE WITH THE PRESCRIBED PRACTICES AND PROCEDURES. END QUOTE.

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16. PARA 22 - ADD AT END OF PARA: QUOTE AGREEMENT HAS ONLY RECENTLY BEEN ACHIEVED ON THE NECESSITY FOR STATISTICS FOR SURVEILLANCE PURPOSES. NO AGREEMENT HAS BEEN REACHED ON THE DEGREE OF DETAIL AND THE NATURE OF THE INFORMATION NECESSARY. END QUOTE. KISSINGER

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